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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

NEETA THAKUR, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 3:25-cv-4737

**MOTION FOR PRELIMINARY  
INJUNCTION AND PROVISIONAL  
CLASS CERTIFICATION AS TO  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES/NATIONAL  
INSTITUTES OF HEALTH**

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## INTRODUCTION

Four weeks ago, the federal government carried out its largest grant termination action against UC researchers to date, and terminated 800 research grants awarded to researchers at the University of California, Los Angeles (“UCLA”).<sup>1</sup> The lion’s share of these terminations—almost 500 grants—were issued by the Department of Health and Human Services (“HHS”) through the National Institutes of Health (“NIH”).<sup>2</sup> Defendants did not even attempt to make their assessment appear individualized: HHS sent a single form termination letter to the Chancellor of UCLA with a list of all the NIH grants the agency was terminating immediately. Cabraser Decl., Ex. A. Although styled as “suspensions,” as this Court has already observed, the so-called “suspensions have the same effect, and are based on the same type of deficient explanations, as the original terminations.” NSF Show Cause Order, Dkt. 96 at 2. Plaintiffs bring this motion to add HHS to the pending preliminary injunction and provisional class certification motion (Dkt. 76) and propose Drs. Marcus Horwitz, Alexander van der Blik, and Rhonda Voskuhl as class representatives for the DOD/DOT/HHS/NIH Form Termination and Equity Termination Classes.

The issues presented in this motion for a preliminary injunction and for class certification are identical to those already decided by this Court with regard to NSF, NEH, and EPA. Dkt. 54 (“Order”); *Thakur v. Trump*, \_\_\_ F.Supp.3d \_\_\_, 2025 WL 1734471 (N.D. Cal. 2025). The Ninth Circuit denied the government’s motion to stay the preliminary injunction and indeed agreed with this Court on every issue. *Thakur v. Trump*, No. 25-4249, 2025 WL 2414835 (9th Cir. Aug. 21, 2025). This motion simply seeks to apply what this Court has already decided to an additional especially important federal agency—the NIH—that has terminated grants to a large number of University of California researchers in a manner that this Court has deemed to violate the First Amendment and the Administrative Procedure Act.

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<sup>1</sup> UCLA Research & Creative Activities, *2025 Federal Administration Transition*, <https://ora.research.ucla.edu/2025-administration-transition/>.

<sup>2</sup> *Id.*

## **BACKGROUND**

### **I. Department of Health and Human Services and the National Institutes of Health**

The Department of Health and Human Services (“HHS”) is the federal agency responsible for protecting public health and well-being in the United States. One of the sub-agencies of HHS is the National Institutes of Health (“NIH”), whose purpose is to conduct and support biomedical and public health research. NIH is widely acknowledged as a “crown jewel” of America’s scientific institutions.<sup>3</sup> It is made up of 27 institutes and centers (known as “ICs”) that each focus on a different disease or body system. Second Amended Compl. ¶ 491 (“SAC”). With over \$36 billion invested in more than 60,000 research grants in 2024 alone, NIH is the largest public funder of medical research in the world. SAC ¶¶ 489, 491.

NIH carries out its public health mission through both “intramural” research (conducted in-house at NIH) and “extramural” research (conducted at outside institutions with NIH financial support). NIH’s extramural research activities stem from statutory directives. Congress has specifically enacted laws requiring NIH and its constituent institutes and centers to conduct research and award grants, and has supplied funding for those activities through regular appropriations. The Public Health Service Act (PHSA), as codified at 42 U.S.C. §241, contains Congress’s overarching mandate for NIH to conduct research and award grants. Subsection (a) of the statute states:

The Secretary [of Health and Human Services] shall conduct in the [Public Health] Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams.

And subsection (a)(3) states:

[The Secretary] may make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the advisory council to the entity of the Department [of Health and Human Services] supporting such projects and make, upon recommendation of the advisory council to the appropriate entity of the

<sup>3</sup> Opening Statement of Dr. J. Bhattacharya, S. Comm. on Health, Educ., Lab. & Pensions (March 5, 2025), <https://bit.ly/Bhattacharya-Statement>.



Department, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research.

42 U.S.C. §§241(a), (a)(3).

Other sections of the PHSA provide more specific directives to each of NIH's constituent institutes and centers, detailing the ICs' general purposes and establishing initiatives and programs within each of them. *See, e.g.*, 42 U.S.C. §284(b)(1) (providing that the NIH Secretary, acting through the Director of each NIH research institute, "shall encourage and support research, investigations, experiments, demonstrations, and studies in the health sciences" with respect to the human disease or disorder or other aspects of human health for which the national research institutes were established). Some of these statutory provisions are directly at odds with the "policy priorities" Defendants HHS, Kennedy, NIH, and Bhattacharya now invoke to terminate plaintiffs' NIH grants.

In addition to the above statutory directives, Congress also established a public process to identify the research priorities of NIH and its institutes and centers. For example, NIH and each of its institutes and centers must develop and promulgate a strategic plan that publicly articulates their research priorities. 42 U.S.C. § 282(m)(1); *id.* at (m)(3). NIH's strategic plan must be submitted to Congress. *Id.* at (m)(1). In 2020, the NIH published its Strategic Plan for 2021-2025 and stated that NIH would prioritize "improving minority health and reducing health disparities; enhancing women's health; addressing public health challenges across the lifespan; promoting collaborative science; and leveraging data science for biomedical discovery."<sup>4</sup> The Plan also stated that NIH "supports a comprehensive spectrum of immunology and infectious disease research focused on developing improved or novel vaccines, including the rapid development of new vaccines to mitigate emerging infectious disease outbreaks, such as COVID-19, Ebola virus disease (EVD), and influenza (flu)."<sup>5</sup> Consistent with NIH's promulgated priorities, UC researchers applied for and received NIH grants after a highly competitive two-tier system of peer review conducted over several months.<sup>6</sup>

<sup>4</sup> NIH, *NIH-Wide Strategic Plan, Fiscal Years 2021-2025* at 3 (2020), <https://www.nih.gov/sites/default/files/2025-01/strategic-plan-fy2021-2025.pdf>.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> Library of Congress, *The National Institutes of Health (NIH): Background and Congressional*

## II. The Trump Administration Directed Federal Agencies to Terminate Grants.

Beginning on Inauguration Day, the Trump Administration explicitly and implicitly directed federal agencies to “terminate” previously awarded grant funds through a series of EOs to that effect. HHS and NIH quickly caved to President Trump’s and DOGE’s directives to eliminate grants relating to disfavored topics. Senior officials at HHS issued directives to review funding “that promote[s] or take[s] part in diversity, equity, and inclusion (‘DEI’) initiatives or any other initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic,” claiming that such grants “violate Federal civil rights law.” HHS consequently developed a policy that required the termination of grants related to specific categories of research that were disfavored as a matter of Administration policy. These categories originally focused on “DEI-related” projects, but evolved to include other disfavored categories, including projects related to gender identity, vaccine hesitancy, China, and COVID-19.

### A. HHS-NIH Grant Terminations

As early as February, HHS and NIH began issuing form termination letters to UC researchers. *See* Cabraser Decl., Ex. B, DEFSNIH\_00001-00002. These form letters stated that grants were being terminated because they “no longer effectuate[d] agency priorities” and stated that the agency would no longer prioritize “amorphous equity objectives” or “so-called diversity, equity, and inclusion (‘DEI’) studies [that] are often used to support unlawful discrimination on the basis of race and other protected characteristics.” *Id.* HHS and NIH continued to issue form termination letters on an ongoing basis. By May, HHS’s database of grant terminations reflected that it had terminated 104 grants to UC recipients.<sup>7</sup> Then, on June 23, HHS and NIH were ordered in *National Institutes of Health v. American Public Health Association*, No. 25-cv-10787 (D. Mass. June 23, 2025) and *Massachusetts v. Kennedy*, No. 25-cv-10814 (D. Mass. June 23, 2025) to restore NIH grants. HHS and NIH subsequently began restore certain NIH grants listed in those actions.

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*Issues* (2025), <https://www.congress.gov/crs-product/R41705> (“All NIH grant[s]...undergo review through a two-tiered system of peer review...The peer review system is pursuant to statute ... [and] typically takes between 8 to 20 months” to complete).

<sup>7</sup> U.S. Dep’t of Health & Human Servs., *HHS Grants Terminated* (May 23, 2025), [https://tags.hhs.gov/Content/Data/HHS\\_Grants\\_Terminated.pdf](https://tags.hhs.gov/Content/Data/HHS_Grants_Terminated.pdf).

Following the Massachusetts district court’s decisions, HHS and NIH took a new approach. On July 31, HHS issued a single form termination letter—styled as a “suspension”—to UCLA, terminating hundreds of grants to its researchers, including to Drs. Horwitz, van der Blik, and Voskuhl. Cabraser Decl., Ex. A. Whereas the prior letters stated that the individual grants “no longer effectuate agency priorities,” the new letter accuses UCLA of “noncompliance.” *Id.* Specifically, the NIH-UCLA letter alleges that UCLA has failed to comply with federal rules and regulations in three ways:

1. UCLA engages in racism, in the form of illegal affirmative action;
2. UCLA fails to promote a research environment free of antisemitism and bias;
3. UCLA discriminates against and endangers women by allowing men in women’s sports and private women-only spaces.

*Id.* In other words, HHS terminated grants of UC researchers at UCLA because it disfavors the UC institution’s DEI efforts with respect to race, religion, and gender identity.

#### **1. Dr. Marcus Horwitz’s NIH Grant Terminations**

Dr. Marcus A. Horwitz is a Distinguished Professor of Medicine and Microbiology, Immunology, and Molecular Genetics at UCLA. Horwitz Decl. ¶ 2. He researches the immunobiology of various diseases, including tuberculosis, and develops treatment regimens, vaccines, and antibiotics to combat them. Horwitz Decl. ¶ 5. He currently serves as a fellow in the Infectious Diseases Society of America and is a member of the American Society for Clinical Investigation. Horwitz Decl. ¶ 4. Dr. Horwitz’s research focuses on (1) the immunobiology of the disease components of Legionnaires’ disease, leprosy, tuberculosis, and tularemia; (2) developing vaccines against those diseases; and (3) developing an ultra-short drug treatment regimen for treating tuberculosis. Horwitz Decl. ¶ 5. In recognition of his accomplishments, he was awarded the Oswald Avery (formerly Squibb) award by the Infectious Diseases Society of America and was elected to a Fellowship in the American Association for the Advancement of Science. Horwitz Decl. ¶ 4.

On July 31, HHS terminated three of Dr. Horwitz’s NIH grants via the mass termination letter sent to UCLA. The first grant was for a research project titled “Optimization and Advanced Proof-of-Concept Studies of a *Listeria*-vectored Multi-Antigenic Vaccine against

1 Tuberculosis.” Horwitz Decl. ¶ 7. The grant project addressed the potential to develop a safer and  
 2 more effective vaccine and booster vaccine against tuberculosis. The purpose of the project was  
 3 to optimize and conduct advanced proof-of-concept studies in small animals and non-human  
 4 primates of a second generation vaccine against tuberculosis. *Id.* For the TB Vaccine project, NIH  
 5 authorized funding for five years of work for a total award of \$5,424,173. Horwitz Decl. ¶ 8.

6 The second grant HHS terminated was for a project titled “Efficacy and Safety of AI-  
 7 enabled PRS Regimen VI (Clofazimine, Bedaquiline and Pyrazinamide) as Ultra-Short Course  
 8 Therapy of LTBI in Non-Human Primates in a Setting Mimicking HIV co-infection.” Horwitz  
 9 Decl. ¶ 12. The project’s goal was to examine a short-term three-drug treatment regimen for latent  
 10 tuberculosis infection (“LBTI”), leveraging artificial intelligence platforms to determine whether  
 11 the treatment prevents reactivation of tuberculosis. *Id.* This study was intended to pave the way  
 12 towards a much shorter regimen that would eventually eliminate latent tuberculosis and  
 13 tuberculosis itself. *Id.* For the Latent TB Treatment project, NIH authorized funding to Dr.  
 14 Horwitz for three years of work from March 2024 through January 2027, for a total award of  
 15 \$2,798,273. Horwitz Decl. ¶ 13.

16 The third grant HHS terminated was for a project titled “Identification by High  
 17 Throughput Screening of Inhibitors of the Mycobacterium tuberculosis ESX-1 and ESX-5 Type  
 18 VII Secretion Systems – critical virulence determinants and novel drug targets.” Horwitz Decl. ¶  
 19 17. The goal of the T7SS Drug project was to identify promising lead compounds with the highest  
 20 therapeutic ratio and study them to potentially develop a new class of antibiotics to treat  
 21 tuberculosis. *Id.* On July 17, 2025, NIH issued a Notice of Award, authorizing grant funding for  
 22 the T7SS Project. *Id.* The Notice of Award authorized funding for two years of work on the  
 23 project, from July 2025 through June 2027, for a total award of \$433,125. Horwitz Decl. ¶ 18.

24 On August 1, 2025, Dr. Horwitz received “Stop Work Notices” from UCLA  
 25 administrators instructing him to stop work on his three NIH-funded projects as a result of the  
 26 grant termination letter HHS sent to UCLA. Horwitz Decl. ¶¶ 10, 15, 19.

1                                    **2.     Dr. Alexander van der Blik's NIH Grant Termination**

2             Dr. Alexander van der Blik is a Professor of Biological Chemistry at UCLA who  
 3 examines the role of mitochondria in neurodegenerative diseases. Van der Blik Decl. ¶¶ 2, 5. For  
 4 the past two decades he has also served as a regular member and temporary member of multiple  
 5 NIH study sections, which decides which grant applications get funded. Van der Blik Decl. ¶  
 6 4. Dr. van der Blik's research focuses on the role that mitochondria serves in neurodegenerative  
 7 diseases such as Alzheimer's and peripheral neuropathies. Van der Blik Decl. ¶ 5. Having  
 8 discovered the molecular basis of mitochondrial fission, which is essential for both cell survival  
 9 and cell death, Dr. van der Blik's research on mitochondrial dynamics is recognized for its  
 10 relevance to neurodegenerative diseases and conditions with high energy demands, including  
 11 cancer and diabetes. *Id.* In recognition of his research, Dr. van der Blik has been honored with a  
 12 fellowship with EMBO (an international membership organization promoting excellence in the  
 13 life sciences) and HFSPO (the Human Frontiers of Science Organization), and a five-year role as  
 14 Research Scholar at the American Cancer Society. Van der Blik Decl. ¶ 4.

15             On July 31, HHS terminated Dr. van der Blik's NIH grant via the mass termination letter  
 16 sent to UCLA. Dr. van der Blik's grant was for a project titled "Control of Calcium Flux and  
 17 Mitochondrial Fission by the Charcot Marie Tooth Disease Protein Mfn2." Van der Blik Decl. ¶  
 18 9. The project aimed to research the underlying causes of Charcot-Marie-Tooth (CMT) disease.  
 19 Van der Blik Decl. ¶ 10. CMT is an inherited condition that damages the nerves controlling  
 20 movement and sensation. *Id.* In the study, Dr. van der Blik sought to study how mutations in a  
 21 protein called Mfn2 affect the way mitochondria, the cell's "power plants," divide. Van der Blik  
 22 Decl. ¶ 10. Because the process is closely tied to nerve cell health, Dr. van der Blik's research  
 23 may help explain what causes CMT and point toward new ways to treat it. *Id.* When NIH  
 24 awarded the grant to Dr. van der Blik, it authorized grant funding for five years of work, from  
 25 January 2021 through December 2025, for a total award of \$2,243,240. Van der Blik Decl. ¶ 11.

26             On August 1, 2025, Dr. van der Blik received a "Stop Work Notice" from UCLA  
 27 administrators instructing him to stop work on the CMT project as a result of the grant  
 28 termination letter HHS sent to UCLA. Van der Blik Decl. ¶ 15.

### 3. Dr. Rhonda Voskuhl's NIH Grant Termination

Dr. Rhonda Voskuhl is a Professor of Neurology at the UCLA School of Medicine, who examines how sex hormones and sex chromosomes cause sex differences in the onset and severity of neurodegenerative diseases. Voskuhl Decl. ¶¶ 2, 5. She currently holds the Jack. H. Skirball Chair and serves as the Director of the UCLA Multiple Sclerosis Program. Voskuhl Decl. ¶ 2. Dr. Voskuhl is also a Faculty Neurologist for the UCLA Comprehensive Menopause Care Program. *Id.*

Dr. Voskuhl's research focuses on (1) determining how sex hormones and sex chromosomes cause sex differences in the onset and severity of neurodegenerative diseases and (2) investigating the role of brain aging on neurodegeneration, identifying a sex hormone by age interaction whereby being estrogen deficient and midlife combine to induce cognitive decline, dorsal hippocampal atrophy, glial activation, and synaptic loss. Voskuhl Decl. ¶ 5. The goal of Dr. Voskuhl's research is to use a brain region-specific, cell-specific, and sex-specific approach to identify neuroprotective treatment targets, then design clinical trials to repair neurodegeneration which are optimally tailored for sex and age. *Id.* In recognition of her research, Dr. Voskuhl was most recently awarded the 2024 John Dystel Prize in Multiple Sclerosis from the American Academy of Neurology and the National MS Society, the most prestigious award in the field of MS. Voskuhl Decl. ¶ 4. In addition to numerous national and international awards, Dr. Voskuhl was also awarded the Rachel Horne Prize for Women's Research in Multiple Sclerosis, 2023, from the European and American Committees for Treatment and Research in MS. *Id.*

On July 31, HHS terminated Dr. Voskuhl's NIH grant via a mass termination letter sent to UCLA. Dr. van der Blik's grant was for a project titled "Neurodegeneration Underlying Distinct Disabilities in Multiple Sclerosis Using a Cell-Specific, Region-Specific, and Sex-Specific Approach." Voskuhl Decl. ¶ 9. The research project aimed to (1) extend the cell-specific and region-specific transcriptomics in astrocytes and oligodendrocytes to microglia and neurons, with cell to cell interactions revealed in mice double-labelled to show gene expression changes in two distinct cell types in the same region in the same mouse, and (2) determine if there are effects of sex and/or age on the most differentially expressed cell-specific and region-specific pathways.

Voskuhl Decl. ¶ 10. If successful, the project would discover neurodegenerative targets optimized for each disability in MS models in females and males during young adulthood and aging. *Id.* When NIH awarded the grant to Dr. Voskuhl, it authorized grant funding for eight years of work, from April 2023 through March 2031, for a total award of \$7,307,976. Voskuhl Decl. ¶ 12.

On August 1, 2025, Dr. Voskuhl received a “Stop Work Notice” from UCLA administrators instructing her to stop work on the MS research project as a result of the grant termination letter HHS sent to UCLA. Voskuhl Decl. ¶ 21.

## **ARGUMENT**

### **I. Drs. Horwitz, Van Der Blik, and Voskuhl Have Standing.**

To establish standing, a “plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). This Court has already held that the original Plaintiffs have Article III standing. *See* Dkt. 54 (“Order”) at 47 (citing *Diamond Alternative Energy, LLC v. Env’t Prot. Agency*, 145 S. Ct. 2121 (2025)). The same is true for Drs. Horwitz, van der Blik, and Voskuhl, who are the principal investigators for their respective grants. Horwitz Decl. ¶¶ 7, 12, 17; van der Blik Decl. ¶ 11; Voskuhl Decl. ¶ 12. The wrongful termination of their grants has caused great harm to their careers and livelihood and can be redressed through the same injunctive and declaratory relief as the other Plaintiffs. Horwitz Decl. ¶¶ 11, 16, 20; van der Blik Decl. ¶¶ 18-22; Voskuhl Decl. ¶ 24. In short, Drs. Horwitz, van der Blik, and Voskuhl “assert[] invasions of traditionally cognizable interests sufficient to confer standing” which “can be redressed by a reversal of the allegedly illegal grant terminations.” Order at 42. In denying Defendants’ partial stay motion, the Ninth Circuit recognized the standing of the representative UC researchers plaintiffs to redress researchers’ own harms. *Thakur*, 2025 WL 2414835 at \*4.



1 **II. The Court Should Provisionally Certify Form Termination and Equity Termination**  
 2 **Classes for UC Researchers Whose Grants were Terminated by HHS, in addition to**  
 3 **DOD and DOT.**

4 **A. The Class Definitions.**

5 The Court has provisionally certified two Classes: the Equity Termination Class and the  
 6 Form Termination Class. Order at 51–52. In this Motion, Plaintiffs propose modifying the  
 7 provisional classes proposed in Plaintiffs’ pending motion as to additional agency defendants  
 8 (Dkt. 76) so as to encompass HHS and its sub-agency, NIH:

9 **DOD/DOT/HHS Equity Termination Class.** All University of  
 10 California researchers, including faculty, staff, academic  
 11 appointees, and employees across the University of California  
 12 system who are named as principal researchers, investigators, or  
 13 project leaders on the grant applications for previously awarded  
 14 research grants by the DOD, DOT, or HHS and its sub-agency NIH  
 15 that are terminated pursuant to Executive Orders 14151 or 14173,  
 16 from and after January 20, 2025.

17 Excluded from the class are Defendants, the judicial officer(s)  
 18 assigned to this case, and their respective employees, staffs, and  
 19 family members.

20 **DOD/DOT/HHS Form Termination Class.** All University of  
 21 California researchers, including faculty, staff, academic  
 22 appointees, and employees across the University of California  
 23 system who are named as principal researchers, investigators, or  
 24 project leaders on the grant applications for previously awarded  
 25 research grants by the DOD, DOT, and HHS and its sub-agency  
 26 NIH that are terminated by means of a form termination notice that  
 27 does not provide a grant-specific explanation for the termination  
 28 that states the reason for the change to the original award decision  
 and considers the reliance interests at stake, from and after January  
 20, 2025. Excluded from the class are Defendants, the judicial  
 officer(s) assigned to this case, and their respective employees,  
 staffs, and family members.

29 **B. The Proposed Classes Satisfy The Requirements of Class Certification.**

30 In granting provisional certification, the Court must determine that the requirements of  
 31 Rule 23 have been met, although “its analysis is tempered, [] by the understanding that ‘such  
 32 certifications may be altered or amended before the decision on the merits.’” *R.I.L-R v. Johnson*,  
 33 80 F. Supp. 3d 164, 179–80 (D.D.C. 2015) (quoting *Bame v. Dillard*, No. 05-1833, 2008 WL  
 34 2168393, at \*5 (D.D.C. May 22, 2008)). This Court already determined that Plaintiffs have  
 35 satisfied the requirements for provisional class certification as to NSF, NEH, and EPA. It should



also do so here, where Plaintiffs are proposing identical classes with respect to HHS. Plaintiffs' proposed HHS/NIH classes satisfy all Rule 23(a) factors as well as the requirements of Rule 23(b)(2). *See Lyon v. U.S. Immigr. & Customs Enf't*, 308 F.R.D. 203, 210-11 (N.D. Cal. 2015). As recently noted in *Barbara v. Trump*, "[c]ourts routinely grant provisional class certification for purposes of entering injunctive relief." No. 2025 DNH 079P, 2025 WL 1904338, at \*3 (D.N.H. July 10, 2025) (collecting grants of provisional class certification, including *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1035, 1041-43 (9th Cir. 2012)).<sup>8</sup>

### 1. Individual Joinder is Impracticable.

Plaintiffs typically must demonstrate that "the class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). Although numbers alone are not controlling, "a class of 40 or more members raises a presumption of impracticability of joinder based on numbers alone." 1 *Newberg on Class Actions* § 3:12 (5th ed. 2021); *see also Rannis v. Recchia*, 380 Fed. Appx. 646, 651-652 (9th Cir. 2010). "Plaintiffs 'need not state the exact number of potential members nor identify all the members of the class so long as the putative class is not amorphous.'" *Foon v. Centene Mgmt. Co.*, No. 2:19-cv-01420 AC, 2023 WL 1447922, at \*4 (E.D. Cal. Feb. 1, 2023) (quoting *Arnold v. United Artists Theatre Cir.*, 158 F.R.D. 439, 449 (N.D. Cal. 1994)). As the Second Amended Complaint alleges, and the NIH-UCLA letter confirms, HHS has terminated close to 500 NIH grants to UC researchers at UCLA. *See* SAC ¶ 543; Cabraser Decl., Ex. A at 5-13. The proposed classes easily satisfies the numerosity requirement.

While the proposed classes are demonstrably numerous to meet any application of 23(a)(1), as the July 31 letter halting approximately 500 NIH grants illustrates, other impracticability factors, unique to the purposes of Rule 23(b)(2) class certification, underscore the appropriateness and necessity of class treatment. The Rule 23(b)(2) class offers a necessary haven

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<sup>8</sup> Quoting *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2567 (2025) (Kavanaugh, J. concurring), the *Barbara* court noted that "plaintiffs who challenge the legality of a new federal statute or executive action and request preliminary injunctive relief may sometimes seek to proceed by class action under [R]ule 23(b)(2) and ask a court to award preliminary classwide relief that may, for example, be statewide, regionwide, or even nationwide." *Barbara*, 2025 WL 1904338, at \*3. The court did just that, holding that it could "later modify or amend the order granting class certification." *Id.*

1 in cases such as this, for those who fear retaliation. “Moreover, in determining numerosity, the  
 2 court also considers whether ‘individual claimants would have difficulty filing individual lawsuits  
 3 out of fear of retaliation, exposure, and/ or prejudice, such that it is unlikely that individual class  
 4 members would institute separate suits.’” *Does 1-10 v. University of Washington* , 326 F.R.D.  
 5 669, 679 (W.D. Wash. 2018), quoting *Buttino v. F.B.I.*, 1992 WL 13013803, at \*2 ( N.D. Cal.  
 6 1992) (finding numerosity where an unknown number of gay FBI employees worked under anti-  
 7 gay policies and were unlikely to come forward individually).

8 **2. There Are Common Questions of Law and Fact and the Proposed**  
 9 **Classes Satisfy Rule 23(a)(2) and Rule 23(b)(2).**

10 Plaintiffs must demonstrate “the capacity of classwide proceedings to generate common  
 11 answers to common questions of law or fact that are apt to drive the resolution of the litigation.”  
 12 *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581, 588 (9th Cir. 2012) (internal quotation marks  
 13 omitted). As this Court previously noted, commonality is satisfied where, like here, plaintiffs  
 14 challenge “a system-wide practice or policy that affects all of the putative class members.” Order  
 15 at 54 (quoting *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001), *overruled on other grounds*  
 16 *by Johnson v. California*, 543 U.S. 499 (2005)).

17 By amending their complaint to allege unlawful HHS grant terminations alongside  
 18 unlawful grant terminations by EPA, NEH, NSF, DOD, and DOT, Plaintiffs have asked the same  
 19 “common questions” that the Court already recognized were sufficient to establish Rule 23(a)(2)  
 20 commonality. For example: whether Agency Defendants followed Trump and DOGE directives  
 21 in terminating grants to both classes; whether grant terminations violated the First Amendment  
 22 rights of both sets of class members; and whether the Agency Defendants’ terminations to the  
 23 Form Termination Class were arbitrary and capricious in violation of the APA. *See* Order at 54,  
 24 55, 58; SAC ¶¶ 529-546 (alleging that HHS terminated grants at the behest of President Trump  
 25 and DOGE), ¶¶ 654-659 (alleging that Defendants, including HHS, violated the First Amendment  
 26 in terminating grants), ¶ 677 (alleging that Defendants violated the APA by distributing generic  
 27 form letters to class members).  
 28

The Rule 23(b)(2) requirement is satisfied for the same reasons. Plaintiffs must show that “the party opposing the class has acted or refused to act on grounds that apply generally to the class.” Fed. R. Civ. P. 23(b)(2). Plaintiffs have done so. The Second Amended Complaint focuses *entirely* on Defendants’ general course of conduct that caused substantially similar class-wide injuries to all class members. *See, e.g.*, SAC ¶¶ 144–224 (EPA), ¶¶ 250–306 (NEH), ¶¶ 325–60 (NSF), ¶¶ 383–417 (DOD), ¶¶ 441–87 (DOT), ¶¶ 528–98 (NIH). The proposed DOD/DOT/HHS Equity Termination and Form Termination Classes, then, satisfy Rule 23(b)(2) for identical reasons as the current Classes.

### 3. Plaintiffs’ Claims Are Typical of Those of the Proposed Classes.

To satisfy typicality, Plaintiffs must show that their claims are “typical of the claims or defenses of the class.” Fed R. Civ. P. 23(a)(3). “The purpose of the typicality requirement is to assure that the interest of the named representative aligns with the interests of the class.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (citation omitted). This Court has already ruled that the original Plaintiffs met the typicality requirement for both the Equity Termination and Form Termination Classes. Order at 56, 58–59. Drs. Horwitz, van der Blik, and Voskuhl satisfy the typicality inquiry for claims against HHS/NIH as well.

Typicality is easily met here because the grants of the three proposed class representatives and the entire proposed classes were terminated in the exact same way: by a single NIH-UCLA form termination letter. The letter provides no reasoned grant-specific explanation for the termination of the grants. The letter’s one-sentence declaration that “the NIH has considered UCLA’s reliance interests” rings hollow and is not sufficient to demonstrate that NIH actually took into account the Plaintiffs’ reliance interests. Ex. A at 3. As such, Plaintiffs’ grants were terminated in a way typical of the other proposed members of the DOD/DOT/HHS Form Termination Class.

The same goes for the DOD/DOT/HHS Equity Termination Class. The NIH-UCLA letter evidences viewpoint discrimination by HHS in violation of the First Amendment. Close to 500 NIH grants were sacrificed as punishment for UCLA’s purported viewpoints on DEI-related issues. The letter categorically accuses UCLA of racism, sexism, and antisemitism for the same

1 policies condemned in the DEI-related Executive Orders that animated the prior individualized  
 2 NIH termination letters. “This is precisely the type of conduct other Equity Termination Class  
 3 members will have been subject to and same injury other members will have suffered.” Order at  
 4 56.

5 **4. Plaintiffs and Class Counsel Will Adequately Represent the Proposed**  
 6 **Classes.**

7 Absent class members must be adequately represented for judgment to bind them.  
 8 *Hansberry v. Lee*, 311 U.S. 32, 42-43 (1940). This prerequisite is satisfied if the representative  
 9 party “will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4).  
 10 Resolution of the adequacy issue requires the Court to address two questions: “(1) do the named  
 11 plaintiffs and their counsel have any conflicts of interest with other class members and (2) will  
 12 the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?”  
 13 *Kim v. Allison*, 87 F.4th 994, 1000 (9th Cir. 2023) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d  
 14 1011, 1020 (9th Cir. 1998)). The Court has already ruled that class counsel and the original  
 15 Plaintiffs are adequate representatives. *See* Order at 57–60. That same logic applies here.

16 As their accompanying Declarations demonstrate, Drs. Horwitz, van der Bliek, and  
 17 Voskuhl are adequate class representatives for the same reasons as the original Plaintiffs. They  
 18 have no conflicts of interest with absent class members. They are committed to the vigorous  
 19 prosecution of this action, as evidenced in their Declarations. And their interests are aligned with  
 20 those of the new DOD/DOT/HHS Form Termination and Equity Termination class members. *See*  
 21 *id.* at 57–59. Even if Drs. Horwitz’s, van der Bliek’s, and Voskuhl’s grant terminations are  
 22 different in some ways from the other class representatives, Plaintiffs need not advance  
 23 representatives that experienced every single variety of harm suffered by the class. *Lyon*, 308  
 24 F.R.D. at 214 (certifying a Rule 23(b)(2) class where “Plaintiffs do not seek individualized relief  
 25 for each class member, but rather ask for systemic changes consistent with a single overarching  
 26 constitutional standard that will be applicable to all class members”); *Coreas v. Bounds*, No.  
 27 TDC-20-0780, 2020 WL 5593338, at \*15 (D. Md. Sept. 18, 2020) (rejecting the defendants’  
 28 argument against certification that “different subsets of putative class members may be entitled to

1 relief where others would not” because “there is available relief that would benefit the entire class  
 2 or an entire subclass”). *Scholl v. Mnuchin*, 489 F. Supp. 3d 1008, 1046 (N.D. Cal. 2020)  
 3 (“Plaintiffs assert that Rule 23(b)(2) is met [ ] because defendants implemented a generally  
 4 applicable policy of denying CARES Act payments to incarcerated persons. . . . The court agrees  
 5 with plaintiffs that defendants’ policy is generally applicable to the class as a whole.”).

6 Plaintiffs have demonstrated that all Rule 23(a) requirements, as well as the Rule 23(b)(2)  
 7 requirement, are satisfied for the new proposed classes. As such, the Court should provisionally  
 8 certify the DOD/DOT/HHS Equity Termination and Form Termination Classes and appoint Drs.  
 9 Horwitz, van der Blik, and Voskuhl as class representatives.

### 10 **III. The Court Should Issue a Preliminary Injunction as to HHS for All the Reasons in** 11 **the Court’s Prior Order.**

12 The Court has already enjoined the EPA, NEH, and NSF from effectuating grant  
 13 terminations to members of the Form Termination and Equity Termination classes; vacated grant  
 14 terminations by those agencies; and ordered those agencies to reinstate terminated grants. Order  
 15 at 61. The Court has also held that suspensions are the same as terminations. NSF Show Cause  
 16 Order. The Ninth Circuit has issued an opinion, for publication, determining that the original  
 17 plaintiffs are likely to succeed on their certified claims, and that the balance of equities favors the  
 18 continuation of the Court’s pending injunction. The Court should issue an additional preliminary  
 19 injunction that extends its decision to HHS (as well as DOD and DOT) for the same reasons.

20 A preliminary injunction is warranted where the moving party establishes that (1) it is  
 21 likely to succeed on the merits; (2) irreparable harm is likely in the absence of preliminary relief;  
 22 (3) the balance of equities tips in the movant’s favor; and (4) an injunction is in the public  
 23 interest. Order at 17; *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). These factors  
 24 strongly favor Plaintiffs.

#### 25 **A. Plaintiffs Are Likely to Succeed on the Merits of Their Claims that HHS** 26 **Grant Terminations are Unlawful.**

27 This Court, and the Ninth Circuit, have already determined that Plaintiffs are likely to  
 28 succeed on the merits of their claims that “grant terminations pursuant to the Equity Termination  
 Orders violate the First Amendment and, in the case of NSF and NEH, were contrary to

1 congressionally mandated directives to both agencies under the APA.” Order at 17; *Thakur v.*  
 2 *Trump*, 2025 WL 2414835 at \*7-8. The Court also found that Plaintiffs are “likely to succeed in  
 3 showing that the mass grant terminations carried out via form letters were conducted in a manner  
 4 that was arbitrary and capricious.” Order at 25. For nearly identical reasons, the Court should rule  
 5 that Plaintiffs are likely to succeed on their claims against HHS.

6 **1. Defendants’ Grant Terminations Violate the First Amendment.**

7 The First Amendment prohibits the government from “regulating speech when the specific  
 8 motivating ideology or the opinion or perspective of the speaker is the rationale for the  
 9 restriction.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829, 833 (1995).  
 10 “Discrimination against speech because of its message is presumed to be unconstitutional.” *Id.* at  
 11 828. “[E]ven in the provision of subsidies, the Government may not ‘ai[m] at the suppression of  
 12 dangerous ideas.’” *Nat’l Endowment for the Arts v. Finley*, 524 U.S. 569, 587 (1998) (quoting  
 13 *Regan v. Taxation with Representation of Wash.*, 461 U.S. 540, 550 (1983) (alteration in  
 14 original)). In the grantmaking context, the government may not reject “a whole class of projects”  
 15 based on “viewpoint alone,” or use Federal funding to “impose a disproportionate burden  
 16 calculated to drive certain ideas or viewpoints from the marketplace.” *Rhode Island Latino Arts v.*  
 17 *Nat’l Endowment for the Arts*, No.25-cv-79-WES, 2025 WL 1009026, at \*12 (D.R.I. Apr. 3,  
 18 2025) (quoting *Finley*, 524 U.S. at 587).

19 However, Defendants’ NIH-UCLA letter demonstrates that HHS engaged in viewpoint  
 20 discrimination when terminating grants at the Executive’s behest. HHS terminated “a whole class  
 21 of projects”—close to 500 NIH grants—based on DEI-related viewpoints HHS attributes to  
 22 UCLA and imputes to its researchers. The letter categorically accuses UCLA of racism, sexism,  
 23 and antisemitism for the same policies condemned in the DEI-related Executive Orders that  
 24 animated the prior individualized NIH termination letters. “This is precisely the type of conduct  
 25 other Equity Termination Class members will have been subject to and same injury other  
 26 members will have suffered.” Order at 56. The goal of such action could not be clearer: “to drive  
 27 certain ideas or viewpoints from the marketplace.” *Rhode Island Latino Arts*, 2025 WL 1009026,  
 28 at \*12 (quoting *Finley*, 524 U.S. at 587). In short, the record shows that HHS terminated grants *en*

1 *masse* to promote particular ideological viewpoints. The First Amendment does not tolerate such  
 2 viewpoint discrimination. Accordingly, Defendants' actions are unconstitutional. As this Court  
 3 has already concluded, and as the Ninth Circuit has acknowledged, plaintiffs are likely to succeed  
 4 on their First Amendment claim. *See Thakur v. Trump*, 2025 WL 2414835 at \*6-7.

## 5 **2. HHS's Grant Terminations Are Contrary to Law Under the APA.**

6 The APA prohibits agency action that exceeds statutory or constitutional authority or is  
 7 otherwise contrary to law. 5 U.S.C. § 706(2)(A), (C); *Kaweah Delta Health Care Dist. v.*  
 8 *Becerra*, 123 F.4th 939, 944 (9th Cir. 2024) ("[U]nder our system of separation of powers, neither  
 9 good intentions nor pressing policy problems can substitute for an agency's lack of statutory  
 10 authority to act."); *Nw. Env't Advocates v. U.S. EPA*, 537 F.3d 1006, 1025-27 (9th Cir. 2008). By  
 11 refusing to spend money that Congress appropriated, Defendants are violating the Impoundment  
 12 Control Act of 1974 and the appropriations statutes underlying NIH's funding schemes.

13 Defendants are also violating NIH's enabling statutes and other laws passed by Congress  
 14 that include grantmaking as a directive. For example, the PHSA specifically instructs the HHS  
 15 Secretary "to encourage, cooperate with, and render assistance to other appropriate public  
 16 authorities, scientific institutions, and scientists in the conduct of, and promote the coordination  
 17 of, research, investigations, experiments, demonstrations, and studies relating to the causes,  
 18 diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of  
 19 man." 42 U.S.C. §241(a).

20 Defendants are also acting contrary to their enabling statutes by terminating funding of  
 21 particular research topics, "because those terminations were based on Plaintiffs' pursuit of the  
 22 very goals that Congress had mandated." Order at 22. Congress has statutorily mandated NIH and  
 23 the ICs under it to engage in a public process to identify the research priorities of NIH and its  
 24 institutes and centers. Every six years, the NIH director must "develop and submit to the  
 25 appropriate committees of Congress and post on the [NIH's website] a coordinated strategy (to be  
 26 known as the 'National Institutes of Health Strategic Plan') to provide direction to the biomedical  
 27 research investments made by the National Institutes of Health, to facilitate collaboration across  
 28 the institutes and centers, to leverage scientific opportunity, and to advance biomedicine." 42



1 U.S.C. § 282(m)(1). Each of NIH’s institutes and centers similarly develops and promulgates a  
 2 strategic plan that publicly articulates its research priorities. *Id.* § 282(m)(3).

3 Until January 2025, NIH followed this congressional directive and publicized its research  
 4 priorities. In September 2019, the NIH director began the process of updating the agency’s  
 5 priorities in biomedical and behavioral research areas, research capacity, and research conduct.  
 6 Between October 2019 and July 2020, NIH gathered feedback from its institutes and centers, their  
 7 advisory councils, external stakeholders, and the general public. In 2020, the NIH published its  
 8 Strategic Plan for 2021-2025 and stated that NIH would prioritize “improving minority health and  
 9 reducing health disparities; enhancing women’s health; addressing public health challenges across  
 10 the lifespan; promoting collaborative science; and leveraging data science for biomedical  
 11 discovery.”<sup>9</sup> Similarly, the plan stated that NIH “supports a comprehensive spectrum of  
 12 immunology and infectious disease research focused on developing improved or novel vaccines”  
 13 including “the rapid development of new vaccines to mitigate emerging infectious disease  
 14 outbreaks, such as COVID-19, Ebola virus disease (EVD), and influenza (flu).”<sup>10</sup> This is still  
 15 NIH’s Strategic Plan *today*; the NIH has yet to promulgate a new Strategic Plan pursuant to  
 16 statute.<sup>11</sup>

17 The NIH grants awarded to Drs. Horwitz, van der Blik, and Voskuhl remain consistent  
 18 with NIH’s current strategic plan. Dr. Horwitz received NIH grants to fund the creation of a  
 19 vaccine and treatments for tuberculosis, an infectious disease. Horwitz Decl. ¶¶ 7, 12, 17. Dr.  
 20 Voskuhl received an NIH grant to address sex and age disparities in multiple sclerosis and  
 21 neurodegenerative diseases. Voskuhl Decl. ¶¶ 9-13. Dr. van der Blik received an NIH grant for  
 22 research on Charcot Marie Tooth disease. Van der Blik Decl. ¶¶ 9-10. By terminating these  
 23 grants, HHS acted contrary to Congress’s direct mandate and the Strategic Plan NIH promulgated  
 24 pursuant to statute. The APA does not allow an agency to flout Congress’s clear directives in this

25 <sup>9</sup> *NIH-Wide Strategic Plan for Fiscal Years 2021–2025*, at 3,  
 26 <https://www.nih.gov/sites/default/files/2025-01/strategic-plan-fy2021-2025.pdf>.

<sup>10</sup> *Id.* at 8.

27 <sup>11</sup> *See NIH-Wide Strategic Plan*, <https://www.nih.gov/about-nih/nih-wide-strategic-plan> (“The  
 28 strategic plan was launched in July 2021 and is being implemented through September 2025. NIH  
 is currently updating the strategic plan to ensure it is aligned with the current Administration’s  
 priorities and complies with this Administration’s Executive Orders.”)



way. *See, e.g., Health Ins. Ass'n of Am., Inc. v. Shalala*, 23 F.3d 412, 416 (D.C. Cir. 1994) (explaining that a court may not accept “the agency’s policy judgments ... if they conflict with the policy judgments that undergird the statutory scheme”); *Brown & Williamson Tobacco Corp. v. FDA*, 153 F.3d 155, 176 (4th Cir. 1998), *aff’d*, *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000) (explaining that “federal agencies” cannot “substitute their policy judgments for those of Congress”).

HHS has exceeded its own statutory authority and have therefore violated 5 U.S.C. Section 706(2)(A) and (C). Accordingly, “the only appropriate remedy is vacatur.” *Kaweah*, 123 F.4th at 944. HHS’s actions violate statutory commands and are otherwise *ultra vires*.

### 3. **Defendants’ Grant Terminations Are Arbitrary and Capricious Under the APA.**

The APA prohibits arbitrary and capricious action. 5 U.S.C. §706(2)(A). *Kalispel Tribe of Indians v. U.S. Dep’t of the Interior*, 999 F.3d 683, 688 (9th Cir. 2021). It requires federal agencies to engage in “reasoned decisionmaking” (*Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020)), meaning an agency must “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation omitted) (quotations omitted). Therefore, agency action, particularly action which represents a departure from prior agency policy, is lawful only if it rests “on a consideration of the relevant factors.” *Id.* at 42-43.

Further, an agency action is arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *Id.* An agency action is also arbitrary and capricious if, when departing from a prior policy, an agency does not “display awareness that it is changing position” or does not “show that there are good reasons for the new policy.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (emphasis in original).

1 HHS’s mass termination of grants awarded to Drs. Horwitz, van der Blik, and Voskuhl  
 2 and the Class was arbitrary and capricious. Defendants do not provide grant-specific reasoning  
 3 for the terminations. The NIH-UCLA termination letter “provide[s] no indication that Defendants  
 4 have ‘considered the relevant factors’ and do[es] not ‘articulate a rational connection between the  
 5 facts found and the choice made.’” Order at 27 (citing *Baltimore Gas & Electric Co. v. Natural*  
 6 *Res. Def. Council, Inc.*, 462 U.S. 87, 105 (1983)) (cleaned up). In the same way that the  
 7 individualized termination letters at issue in the prior Order stated the funding “no longer  
 8 effectuate[] the program goals or agency priorities” and mentioned the disfavored topics, the  
 9 NIH-UCLA termination letter simply accuses UCLA of “noncompliance” with reference to the  
 10 federal government’s revised stance on DEI matters. Such conclusory statements cannot  
 11 constitute reasoned explanations for agency action. *See, e.g., Drs. for Am. v. Off. of Pers. Mgmt.*,  
 12 766 F. Supp. 3d 39, 53 (D.D.C. 2025) (“[Plaintiff’s] arbitrary and capricious argument is simple:  
 13 the agencies’ removal decisions were ‘completely unreasoned’ and thus were not the product of  
 14 reasoned decisionmaking . . . The Court agrees that [Plaintiff] has demonstrated a likelihood of  
 15 success on the merits as to this claim.”).

16 Equally as important, the NIH-UCLA termination letter shows that the agencies failed to  
 17 consider the reliance interests of grantees (a fact the other Agency Defendants conceded in a  
 18 recent argument before the Ninth Circuit *on the same day* that HHS issued the NIH-UCLA letter  
 19 claiming that reliance interests were considered). *See* Order at 26-28. Instead, Plaintiffs were left  
 20 stranded, without funding, in the middle of multi-year research projects they were told would be  
 21 fully funded. Horwitz Decl. ¶¶ 11, 16, 120; van der Blik Decl. ¶¶ 18-22; Voskuhl Decl. ¶ 24.  
 22 Grantees who had received some, but not all, of their awards had already spent significant time on  
 23 their projects. Grantees had been using their federal funds to pay for their salaries and those of  
 24 their staff and research assistants. Without those funds, they have had to lay off critical staff  
 25 members and research assistants. Horwitz Decl. ¶¶ 16, 20; van der Blik Decl. ¶ 19; Voskuhl  
 26 Decl. ¶ 24. Defendants have failed to introduce any evidence that they considered the  
 27 consequences of prematurely terminating partially-funded research projects that would have  
 28 benefited grantees, affiliate institutions, and members of the public alike. *See* Order at 30.

1 Finally, as this Court previously concluded, Defendants’ terminations of already-awarded  
 2 grants constitute final agency action for APA purposes. Order at 31-33. As such, APA review is  
 3 appropriate.

4 **B. The Harms Caused by HHS’s Unlawful Conduct Will Become Irreparable**  
 5 **Absent The Court’s Intervention.**

6 Plaintiffs must demonstrate that they are “likely to suffer irreparable harm in the absence  
 7 of preliminary relief.” *Winter*, 555 U.S. at 20. They are able to do so here. As with DOD and  
 8 DOT, HHS is causing the exact same irreparable harm as EPA, NEH, and NSF. *See* Order at 47–  
 9 48. HHS has caused irreparable harm to the First Amendment rights of Drs. Horwitz, van der  
 10 Blik, and Voskuhl. *See id.* at 47 (the violation of First Amendment rights “unquestioningly”  
 11 causes irreparable injury). The other irreparable harms HHS has caused include sizable monetary  
 12 losses, layoffs, hiring and training disruptions, interruption of graduate research programs, injury  
 13 to professional reputation, and potential cancellation of research altogether. Order at 47–48.  
 14 Lastly, the harms to the public cannot be overstated. UC researchers with NIH grants are at the  
 15 forefront of medical and public health research. By terminating Dr. Horwitz’s grants, for  
 16 example, NIH has caused the cessation of a long-running tuberculosis vaccine project, causing  
 17 harm to the public health by preventing or delaying the introduction of a vaccine to battle a now  
 18 resurgent infectious disease. Horwitz Decl. ¶ 11. In Dr. Voskuhl’s case, terminating her NIH  
 19 grant hinders medical advancements for multiple sclerosis and neurodegenerative diseases.  
 20 Voskuhl Decl. ¶ 24. Similarly, the termination of Dr. van der Blik’s grant harms the public in  
 21 that it prevents or delays the study and treatment of Charcot Marie Tooth disease, Alzheimer’s,  
 22 and dementia. Van der Blik Decl. ¶ 22.

23 HHS’s grant terminations have caused and will continue to cause concrete harm and  
 24 create uncertainty (in many cases, to the point of operational chaos) for Drs. Horwitz, van der  
 25 Blik, and Voskuhl, and the proposed class members. This Court and others have recognized  
 26 these types of harms as warranting preliminary injunctive relief. *See* Order at 47–49; *City & Cnty*  
 27 *of S.F. v. USCIS*, 408 F. Supp. 3d 1057, 1123 (N.D. Cal. 2019) (recognizing “burdens on . . .  
 28 ongoing operations” for public entities, including administrative costs caused by changes in

1 federal policy, as constituting irreparable harm); *Tennessee v. Dep't of Educ.*, 104 F.4th 577, 613  
 2 (6th Cir. 2024) (same).

3 **C. The Balance of Equities Weigh in Plaintiffs' Favor, and An Expanded**  
 4 **Preliminary Injunction Is in the Public Interest.**

5 The equities and public interest, which merge when the government is a party, tip sharply  
 6 in favor of Plaintiffs. *Wolford v. Lopez*, 116 F.4th 959, 976 (9th Cir. 2024). The threatened and  
 7 actual harm to Plaintiffs far outweighs the federal government's interests in immediately  
 8 enforcing these grant terminations, and preserving Plaintiffs' constitutional and statutory rights is  
 9 in the public interest. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) ("[I]t is always  
 10 in the public interest to prevent the violation of a party's constitutional rights" (citation omitted));  
 11 *Nat'l Treasury Emps. Union v. U.S. Dept. of Treasury*, 838 F. Supp. 631, 640 (D.D.C. 1993)  
 12 ("The preservation of . . . the legality of the process by which government agencies function  
 13 certainly weighs heavily in the public interest."); *Clarke v. Off. of Fed. Housing Enter. Oversight*,  
 14 355 F. Supp. 2d 56, 66 (D.D.C. 2004) ("[T]here is a substantial public interest in ensuring that  
 15 [the agency] acts within the limits of its authority."); *Widakuswara v. Lake*, No. 1:25-cv-1015,  
 16 2025 WL 1166400, at \*17 (D.D.C. Apr. 22, 2025) ("[T]here is a substantial public interest 'in  
 17 having governmental agencies abide by the federal laws that govern their existence and  
 18 operations.'" (citation omitted)).

19 The government will suffer no harm from ceasing to terminate already authorized grants  
 20 for which Congress has already appropriated funds, nor from returning to the orderly and legally  
 21 compliant grant administration processes in place prior to Inauguration Day. The government will  
 22 certainly continue to function (and will indeed function better) if the status quo ante is restored.  
 23 *See Order at 49* ("An agency is not harmed by an order prohibiting it from violating the law.").  
 24 The balance of equities therefore strongly supports a preliminary injunction. *See id.* at 48; *see*  
 25 *also Thakur v. Trump*, 2025 WL 2414835 at \*8.

26 **CONCLUSION**

27 For all of these reasons, Plaintiffs respectfully request that the Court grant their Motion to  
 28 provisionally certify the DOD/DOT/HHS Form Termination and Equity Termination Classes;

1 appoint plaintiffs Marcus Horwitz, Alexander van der Blik, and Rhonda Voskuhl as additional  
 2 Class Representatives; appoint the undersigned Counsel to represent these classes; and issue an  
 3 additional preliminary injunction applicable to HHS/NIH as well as DOD and DOT.

4  
 5 Dated: August 29, 2025

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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that August 29, 2025, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to registered parties.

Executed August 29, 2025 at San Francisco, California.

/s/ ELIZABETH J. CABRASER

ELIZABETH J. CABRASER